

Order

Michigan Supreme Court
Lansing, Michigan

November 20, 2007

Clifford W. Taylor,
Chief Justice

ADM File No. 2005-25

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendment
of Rule 2.203 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.203 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 2.203 Joinder of Claims, Counterclaims, and Cross-Claims

(A) Compulsory Joinder of claims and counterclaims. ~~In a pleading that states a claim against an opposing party, the~~ A pleader must join in a complaint or counterclaim every claim that the pleader has against that opposing party at the time of serving the pleading, if it arises out of the transaction or occurrence that is the subject matter of the action and does not require for its adjudication the presence of third parties over whom the court cannot acquire jurisdiction, except that such a claim need not be stated if at the time the action was commenced, the claim was the subject of another pending action.

(B)-(F)[Unchanged.]

Staff Comment: The current Michigan Court Rules contain a compulsory joinder provision, which generally requires that all claims arising from the same transaction or occurrence be combined, and a permissive counterclaim provision, which allows, but does

not require, parties to bring a counterclaim. The Federal Rules of Civil Procedure contain opposite provisions; i.e., a compulsory counterclaim provision at FR Civ P 13, and a permissive claim joinder provision at FR Civ P 18. This proposal would require the compulsory joinder of counterclaims, similar to the federal rules.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2008, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2005-25. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 20, 2007

Corbin R. Davis
Clerk